



U.S. Department
of Transportation
**Federal Aviation
Administration**

Aviation Safety

800 Independence Ave
Washington, DC 20591

February 21, 2020

Exemption No. 9902I
Regulatory Docket No. FAA-2008-1128

Mr. Douglas G. Jeanes
Executive Director
Cavanaugh Flight Museum
4572 Claire Chennault Street
Addison, TX 75001

Dear Mr. Jeanes:

This letter is to inform you that we have granted your petition to amend Exemption No. 9902H. It transmits our decision, explains its basis, and gives you the conditions and limitations of the exemption, including the date it ends.

The Basis for Our Decision

By letters posted to the Federal Docket on August 20, 2019, and August 28, 2019, you petitioned the Federal Aviation Administration (FAA) on behalf of Cavanaugh Flight Museum (CFM) for an amendment to Exemption No. 9902H. That exemption provided relief from §§ 91.9, 91.315, 91.319(a), 119.5(g), and 119.21(a) of Title 14, Code of Federal Regulations (14 CFR) to the extent necessary to allow CFM to operate the museum's aircraft for the purpose of carrying passengers for compensation or hire for living history flight experiences (LHFE).

In your August 20, 2019 petition, you requested that the address and contact information for CFM be updated to the information noted in the amendment request. This amended exemption contains this change.

In your August 28, 2019, petition, you requested an amendment to Condition and Limitation 15(a), which reads:

15. All flight operations must be conducted —

- a. At a minimum operating altitude of not less than 1,000 feet above ground level (AGL);

AFS-19-129746-E

You stated that the amendment is needed in order to recognize the difference in minimum safe altitudes between helicopter LHFE operations and LHFE operations conducted in airplanes. The exemption that CFM currently holds applies to both airplanes and helicopters, as listed on the exemption. The FAA has amended Condition and Limitation 15(a) to add a minimum safe altitude standard that applies to operations with helicopters.

The FAA's analysis is as follows:

The FAA notes that 14 CFR § 91.119 addresses minimum safe altitudes. The FAA's review of this rule notes that § 91.119(d)(1) permits helicopters to operate at minimums lower than those prescribed elsewhere in the regulation as long as they comply with any routes or altitudes otherwise prescribed by the FAA and do not cause a hazard to persons or property on the surface. As such, this amended exemption contains a change in Condition and Limitation No. 15 to add a specified minimum altitude for helicopter operations conducted under this exemption.

Our Decision

The FAA has determined good cause exists for not publishing a summary of the petition in the Federal Register because the requested extension of the exemption would not set a precedent and any delay in acting on this petition would be detrimental to CFM.

The FAA has determined the justification for the issuance of Exemption No. 9902H remains valid with respect to this exemption and is in the public interest. Therefore, under the authority provided by 49 U.S.C. 106(f), 40113, and 44701, which the FAA Administrator has delegated to me, I grant the Cavanaugh Flight Museum (CFM) a revised exemption from §§ 91.9, 91.315, 91.319(a), 119.5(g), and 119.21(a) of Title 14, Code of Federal Regulations (14 CFR) to the extent necessary to allow CFM to operate aircraft for the purpose of carrying passengers for compensation or hire for living history flight experiences, subject to the following conditions and limitations.

By this document, the FAA also clarifies the relief granted from the applicability of § 91.9(a), which prescribes as follows:

“No person may operate a civil aircraft without complying with the operating limitations specified in the approved Airplane or Rotorcraft Flight Manual, markings, and placards, or as otherwise prescribed by the certifying authority of the country of registry.”

Aircraft used in LHFE operations generally have an operating limitation that prohibits that aircraft from being operated for compensation or hire carrying persons or property. The relief this exemption grants from the applicability of § 91.9(a) only applies to this specific operating limitation, to the extent necessary to conduct operations pursuant to the exemption. All other operating limitations remain in effect and apply to all operations of the aircraft listed in this exemption, including operations conducted for the purpose of LHFE flights. Condition and Limitation 23 is amended to reflect this clarification.

Please note that the conditions and limitations included with an exemption may not be based on specific regulations, but are the FAA's means of ensuring an equivalent level of safety. This may necessitate limitations that go beyond the established regulations because the proposed operation is, by its need for an exemption, outside the normal regulatory structure. In addition, the FAA may, when necessary, revise the conditions and limitations or require corrective action in order to adequately mitigate safety concerns and risk factors, as they become known. This amended exemption cancels any Conditions and Limitations appended to previous exemptions. Please review and comply with the following Conditions and Limitations as they differ in many respects from previous exemptions.

Conditions and Limitations

1. This exemption applies only to the aircraft listed below:
 - a. Bell UH-1H, N812SB, serial number 64-13553;
 - b. Douglas B-26, N7705C, serial number 4435710;
 - c. Douglas EA-1E, N65164, serial number 55-471DH;
 - d. Goodyear FG1D, N451FG, serial number 92399;
 - e. Grumman TBM, N86280, serial number 86280;
 - f. Grumman S-2 Tracker, N37AM, serial number 136431;
 - g. North American B-25, N5548N, serial number 46-4106;
 - h. North American P-51, N51JC, serial number 4472339;
 - i. North American T-28B, N228TS, serial number 200-422;
 - j. North American T-28B, N828JC, serial number 137789; and
 - k. North American T-28B, N52424, serial number 140012.
2. CFM must maintain and apply, on a continuous basis, an operational control structure that meets the criteria specified in the FAA Living History Flight Experiences policy, hereinafter referred to as The FAA Policy, that was published on July 21, 2015 (80 FR 43012). The CFM Manual System must contain adequate information concerning operational control.
3. CFM must maintain and apply, on a continuous basis, its Manual System, to include all documents contained herein, used as its basis for an equivalent level of safety, for

all operations subject to this exemption. This system must continue to ensure all criteria in The FAA Policy are continuously met, including the Conditions and Limitations of this exemption. CFM will be assigned a jurisdictional Flight Standards District Office (FSDO). CFM must provide its manual system documents, including revisions, in a form and manner acceptable to the CFM jurisdictional FSDO. Manual and document revisions and a record of revisions must be provided to the jurisdictional FSDO within 10 days of any changes. These documents include, at a minimum:

- a. CFM General Operations Manual (GOM);
 - b. CFM Pilot Qualifications and Training Manual;
 - c. CFM General Maintenance Manual (GMM);
 - d. CFM Safety Management System (SMS) Manual; and
 - e. CFM FAA-Approved Aircraft Inspection Program (AAIP), for those aircraft that require compliance with an AAIP.
4. In order to participate in CFM's program and operations, persons must initially, and on an annual basis, receive training appropriate to their position on the contents and application of CFM's Manual System, safety and risk management program, and the conditions and limitations set forth in this exemption.
5. CFM must maintain and apply, on a continuous basis, its safety and risk management program that meets or exceeds the criteria specified in The FAA Policy for all operations subject to this exemption. This includes, at a minimum, the CFM Safety Management System (SMS) used as a basis for an equivalent level of safety.
6. CFM must maintain all aircraft subject to this exemption in accordance with—
- a. CFM General Maintenance Manual;
 - b. Maintenance requirements as specified in the appropriate type specification sheet, as amended;
 - c. FAA-approved maintenance inspection program that meets the requirements of § 91.409(e);
 - d. Appropriate military technical manuals; and
 - e. For those aircraft not required to maintain an AAIP, maintain the aircraft in accordance with § 91.409 (a), and (b).

7. CFM must document and record all ground and flight training and testing. The documentation and records must contain, at minimum, the following information:
 - a. The date of each training or testing session;
 - b. The amount of time spent for each session of training given;
 - c. The location where each session of training was given;
 - d. The aircraft identification number(s) in which flight training and testing was received;
 - e. The name and certificate number (when applicable) of the instructor who provided each session of training;
 - f. The name and certificate number of the pilot who provided each session of testing; and
 - g. For verification purposes, the signature and printed name of the person who received the training or testing.
8. No person may serve as a flight crewmember unless, since the beginning of the 12th calendar month before that service, that pilot has completed all CFM- and FAA-required training, and passed a competency check given by the FAA or an authorized check pilot in that aircraft, to determine the pilot's competence in practical skills and techniques.
9. The competency check will consist of the maneuvers and procedures established by *8900.1, Vol 3, chapter 19, section 7*:
 - a. Paragraphs 3-1278 A and B (as it pertains to Part 135);
 - b. Paragraph 3-1280;
 - c. Table 3-69; and
 - d. Table 3-70 for airplanes and table 3-71 for helicopters.
(NOTE: An actual engine shutdown, restart and propeller feathering exercise, for those pilots already holding the appropriate Type Rating or Experimental Authorization, is not required.)
10. If a person who is required to receive training, take a test, or a flight check under this exemption, completes the training, test, or flight check in the calendar month before or after the calendar month in which it is required, that person is considered to have completed the training test or check in the calendar month in which it is required.

11. CFM must maintain the following information and records:

- a. The name of each flight crewmember CFM authorizes to conduct flight operations under the terms and conditions of this exemption;
- b. Copies of each flight crewmember's pilot certificate, medical certificate, qualifications, and initial and recurrent training and testing documentation to comply with these conditions and limitations;
- c. The name of each mechanic CFM authorizes to conduct maintenance operations under the terms and conditions of this exemption;
- d. Copies of each mechanic's certificate, qualifications, and initial and recurrent training, and testing documentation to comply with the terms and conditions of this exemption; and
- e. Records of maintenance performed, and maintenance inspection records to comply with the conditions above. Maintenance and inspection records must meet the requirements of 14 CFR §§ 43.9, 43.11, and 91.405.

12. CFM must make available to the FAA, upon request, any manual, document or record used to meet the criteria specified in The FAA Policy and these conditions and limitations.

13. Before permitting a person to be carried on board an aircraft for the purposes authorized under this exemption, CFM will inform that person of the type of airworthiness certificate issued for the aircraft in which the operation will occur, and the significance of that certificate as compared to a Standard Airworthiness Certificate.

14. CFM must notify the jurisdictional FSDO within 24 hours of any of the following occurrences by written report, by electronic mail, or by facsimile:

- a. Each in-flight fire in any system or area that requires activation of any fire suppression system or discharge of a portable fire extinguisher;
- b. Each exhaust system component failure including the turbocharger components that causes damage to any engine, structure, cowling, or components;
- c. Each aircraft component or system that causes, from the moment the aircraft leaves the surface of the earth on takeoff until it touches down on landing, accumulation or circulation of noxious fumes, smoke, or vapor in any portion of the cabin or crew area;

- d. Except when intentional for training, each occurrence of engine shutdown or propeller feathering, and the reason for such shutdown or feathering;
- e. Each failure of the propeller governing system or feathering system;
- f. Any landing gear system or component failure or malfunction, which requires use of emergency or standby extension systems;
- g. Each failure or malfunction of the wheel brake system that causes loss of brake control on the ground;
- h. Each aircraft structure that requires major repair due to damage, deformation, or corrosion and the method of repair;
- i. Each failure or malfunction of the fuel system, tanks, pumps, or valves;
- j. Each malfunction, failure, or defect in any system or component that requires taking emergency action of any type during the course of any flight; and

15. All flight operations must be conducted —

- a. In compliance with a minimum operating altitude of not less than;
 - i. 1,000 feet above the surface for airplanes;
 - ii. 500 feet above the surface for helicopters;
- b. Between the hours of official sunrise and sunset, as established in the Air Almanac, as converted to local time;
- c. Within a 50-statute-mile radius of the departure airport with landings only permitted at the departure airport;
- d. With a minimum flight visibility of not less than 3 statute miles and a minimum ceiling of not less than 1,500 feet above the surface;
- e. For passenger-carrying flights greater than 25 statute miles from the departure airport and up to 50 statute miles, the pilot-in-command (PIC) must obtain weather reports and forecasts prior to flight and valid for the duration of the proposed operation that indicate that the weather is expected to be no less than 5 statute miles visibility and cloud ceilings no less than 2,000 feet AGL. Passenger-carrying operations shall be terminated if ceiling and visibility become less than the minimum required by these conditions and limitations.

Weather forecasts listing discriminators such as probability (PROB), becoming (BECMG), or temporarily (TEMPO) shall be limiting; and

- f. Operations conducted for the purpose of dispersing human remains must comply with applicable Federal, State, and local laws and regulations governing the dispersal of human remains.
16. All flight operations must carry no more than the maximum number of passengers permitted by the aircraft's weight and balance limitations and number of approved seats in the aircraft.
 17. All aircraft must have the equipment listed in §§ 91.205(b) and 91.207 and that equipment must be in an operable condition during the flight.
 18. No later than 72 hours prior to commencing flight operations under the terms of this exemption, CFM must notify the FSDO having geographic responsibility where it intends to conduct the flight operations and shall provide a copy of this exemption upon request.
 19. Aerobatic flight is prohibited while passengers are on board the aircraft.
 20. Flight within 500 feet of another aircraft (i.e., formation flying) is prohibited.
 21. Prior to flight, the PIC must ensure that a passenger briefing meeting the scope and content of § 135.117 has been provided to the passengers.
 22. Only those listed by CFM as a qualified PIC or second-in-command (SIC) for the aircraft, may occupy a pilot station, or manipulate the flight controls.
 23. CFM must operate all flights within the confines of its Manual System, the applicable regulations, and the conditions and limitations of this exemption, and is bound by whichever is more restrictive. CFM must comply with all operating limitations that apply to aircraft utilized in accordance with this exemption, with the exception of any operating limitation prohibiting carriage of persons or property for compensation or hire or other relief specifically provided by this grant of exemption.
 24. Failure to comply with any of these conditions and limitations is grounds for the immediate suspension or revocation of this exemption.
 25. The North Texas FSDO is the jurisdictional Flight Standards District Office for CFM and is responsible for oversight of CFM for all matters pertaining to this exemption and the operation of the aircraft under this exemption.

26. This exemption is not valid for operations outside of the United States of America.

The Effect of Our Decision

The FAA's decision amends Exemption No. 9902H to 9902I and extends the termination date to October 31, 2021, unless sooner superseded or rescinded.

Sincerely,

/s/

Robert C. Carty

Deputy Executive Director, Flight Standards Service